

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

JOSE JIMENEZ,

Defendant.

8:15CR320

MEMORANDUM AND ORDER

This matter is before the Court on the request of the defendant seeking compassionate release. [Filing No. 109](#). Defendant pled guilty to two counts of possession with intent to distribute methamphetamine and possession use of firearm 924(c)(1)(A). On June 9, 2016, Defendant was sentenced to a term of 120 months on Count II and 60 months on Count III to be served consecutively.

Defendant seeks a reduction of sentence pursuant to [18 U.S.C. § 3582\(c\)\(1\)\(A\)](#) as amended by Section 603 of the First Step Act, [Pub. L. No. 115-391](#), 132 Stat. 5194 (2018). In Section 603 of the First Step Act, Congress amended [18 U.S.C. § 3582\(c\)\(1\)\(A\)](#) to permit defendants to move a sentencing court for compassionate release “after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility, whichever is earlier.” Administrative exhaustion under the Act is a jurisdictional prerequisite to this Court making a decision as to compassionate relief. Defendant contends that he submitted his request to the warden on December 2, 2023, and to date, there has been no response. Accordingly, the Court finds that the defendant has met his administrative exhaustion requirement.

The Court will appoint the Federal Public Defender's Office to oversee this case. The Court will order the United States Probation office to prepare an investigative report, review the relevant medical records, provide the Court with any additional relevant records not included in the filing, and conduct a review of any suggested home detention placement. The Court will likewise order the government to file its response.

THEREFORE, IT IS ORDERED THAT:

1. The Federal Public Defender's office, Dave Stickman, is appointed to represent the defendant and file any appropriate documents or briefs within 30 days of the date of this Order.
2. The United States Probation Office, Brandon Maxon, is ordered to review the defendant's motion, suggestion for home placement, and Bureau of Prison records and file an investigative report, under seal *with courtesy copies to be sent to the AUSA and Defendant's Counsel*, within 30 days of the date of this Memorandum and Order.
3. The United States Attorney's office shall have 14 days from the date the Probation Office files its investigative report to file a responsive brief.
4. The defendant shall have 14 days from the filing of the Government's brief to file a reply brief if he so chooses.

Dated this 21st day of February, 2024.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge